

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

BING HONG LI,
Plaintiff,

v.

MING MING SU; P.L.; U.S.
DEPARTMENT OF STATE; and U.S.
CUSTOMS AND BORDER
PROTECTION,
Defendants.

C.A. No. 24-200-JJM-PAS

ORDER

The Plaintiff moves for leave to serve process via email on Defendant Ming Ming Su and the Minor Defendant P.L. who are domiciled in China, under Rule 4(f)(3) of the Federal Rules of Civil Procedure. Mr. Li initiated this action on May 17, 2024, and summonses were issued by the Clerk on July 10, 2024. As of the date of this Order, service remains unexecuted and, in his Motion for Substitute Service of Process (ECF No. 19), Mr. Li has demonstrated to the Court that he has been diligent in attempting traditional means to serve the Defendants of the pending Complaint.

In situations where defendants are hard to serve by traditional means, a court may authorize service by alternative means, such as email. Several courts have held that service by email under Rule 4(f)(3) is permissible on defendants residing in China and other countries that have objected to Article 10 of the Hague Convention service. *See, e.g., Sulzer Mixpac AG v. Medenstar Indus. Co.*, 312 F.R.D. 329, 331-32 (S.D.N.Y. 2015) and *Jackson Laboratory v. Nanjing University*, No. 1:17-cv-00363-

GZS, 2018 WL 615667, *4 (D. Me. Jan. 29, 2018) (both permitting service by email on Chinese corporation under Rule 4(f)(3)). It is significant that Defendant Ming Ming Su is aware of the pending action as she has acknowledged personal delivery through a third party and has submitted a response to the Complaint to the Court by email. ECF No. 25.

Mr. Li is authorized to serve the Summonses and Complaint on Defendant Ming Ming Su and the minor Defendant P.L. via the email address that Defendant Su supplied in her Motion to Dismiss. Thus, the Motion for Alternative Service by email (ECF No 19) is GRANTED and service shall be made within fourteen (14) days of this Order.

The two government Defendants, the U.S. Department of State and the U.S. Customs and Border Patrol, remain unserved. Within 30 days of this Order, under Fed. R. Civ. P. 4(i), Mr. Li shall serve summonses for each of these government agencies, the Attorney General of the United States, and the United States Attorney's Office for the District of Rhode Island by serving the United States Attorney in accordance with Fed. R. Civ. P. 4(i)(2) and file proof of service thereafter with the Court. Failure to do so may result in the government Defendants being dismissed from the case.

Finally, Defendants Su and P.L. have moved to dismiss based on lack of personal jurisdiction and failure to properly serve the Complaint. The Motion is DENIED without prejudice with respect to failure to serve the Complaint to being refiled if the Plaintiff does not file a proof of service by email as permitted by this

ORDER. The Motion is also DENIED without prejudice with respect to lack of personal jurisdiction to be refiled after the Defendants are served or fourteen (14) days elapse without a proof of service being filed.

In sum, the Court GRANTS the Motion for Alternative Service (ECF No. 19) and DENIES without prejudice the Motion to Dismiss (ECF No. 25).

IT IS SO ORDERED.

s/John J. McConnell, Jr.

John J. McConnell, Jr.
Chief United States District Judge

February 10, 2025